

REMARKS

Claims 1-7 and 10-13 are pending. The Applicants note that the claim listing in the Preliminary Amendment submitted on December 12, 2005 was directed to an incorrect claim set not reflective of the originally filed claims of U.S. Application No. 10/560,555. The claim listing submitted herewith replaces all previous claim listings, and Applicants note that the claim amendments and claim identifiers are based on the originally filed claims. Applicants also submit that the restriction requirement is consistent with the currently presented claim listing. The undersigned thanks Examiner Chang for discussing this issue on July 21, 2008.

The Applicants note that this application is the National Stage of PCT/EP2004/006274, as indicated in the preliminary amendment, and accompanying papers, filed December 12, 2005. The application is not the National Stage of PCT/EP2004/006280.

Claims 2-6 have been amended to incorporate language more conventional in U.S. patent practice. Claims 4 and 7 have been amended to remove multiple dependencies. Claims 8 and 9 have been canceled. New claims 11-13 have been added and find support in the originally filed specification at, for example, pages 8-9. No new matter has been added. The pending claims are the subject of a restriction requirement, as follows:

Group I: claims 1-7 and 10, directed to compounds, compositions, and methods of making compounds of formula I;

Group II: claims 11-13, directed to methods of treatment of 5HT₄-related disorders.

The Applicants hereby elect Group I, claims 1-7 and 10, with traverse, to the extent the Office intends to issue a further restriction based on the requested species election, based on structures (a-1)-(a-8). Structures (a-1)-(a-8) all represent cyclic ethers, varying only in the number of methylenes (1, 2, 3, 4, or 5) and the number of oxygens (1 or 2). These compounds should have similar search classifications; therefore, no search burden exists and the entirety of the elected claims should be searched without further restriction.

The Applicants disagree with the Office's allegation that the present invention is not novel in view of compounds 11 and 12 of WO 00/37461. The compounds of the present

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invention require that L is, among other things, a radical of formula Alk-R⁶, wherein Alk is C₁₋₁₂alkanediyl and R⁶ aryl, wherein aryl is phenyl substituted with 1, 2 or 3 substituents each independently selected from hydroxycarbonyl. In compounds 11 and 12 of WO 00/37461, L is C₆H₅-CH₂-, which is not within the scope of the pending claims. As such, the pending claims are novel in view of WO 00/37461.

To the extent the Office requires an election of species, the Applicants elect compound 1, depicted on page 22 of Table F-1. Claims 1-5, 7, and 10 are believed to encompass the elected species. It is Applicants' understanding that this species election is being made to aid the Examiner in conducting a search and examination of the claimed subject matter, and is not to be construed as limiting the scope of Applicants' claims. It is also Applicants' understanding that if the elected subject matter is found to be allowable over the prior art, the search and examination will be expanded to cover other species, until it includes the full scope of the generic claims included in the elected group.

An early and favorable Action on the merits is respectfully requested.

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